IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 90 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA
HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME-TAX - Applicant(s)

Versus

JAMJODHPUR LOHANA MAHAJAN - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant
NOTICE SERVED for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 09/01/2006

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1.The Income Tax Appellate Tribunal, Ahmedabad

Bench “A” has referred the following question under Section 256(1) of the Income Tax Act, 1961 :

> “Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the donations in question did not represent the income of the assessee trust?”

2.The assessment year is 1987-88 and the corresponding accounting year is Samvat Year 2042.

3.Heard Mr.M.R.Bhatt, the learned senior standing counsel for the applicant revenue. Though served, there is no appearance on behalf of the respondent assessee.

4.As can be seen from the orders of the Tribunal as well as the Deputy Commissioner of Income

Tax (Appeals), both the authorities have concurrently found that the donations of Rs.81,609/-, had been received for a specific purpose i.e. for construction of Vridhashram Building and addition to old building. That the donations which form part of the corpus of the trust are, therefore, not an income of the trust. The aforesaid amount would, therefore, fall within the bracketed portion of Section 12 of the Act, being contribution with specific direction that they shall form part of the corpus of the trust or institution. In the circumstances, the amount in question has rightly been held to be not an income of the trust. Nothing has been pointed out to dislodge the aforesaid findings of the authorities.

5. In the circumstances, it is held that the Tribunal was justified in holding that the donations in question did not represent the

income of the assessee trust. The question is, accordingly, answered in the affirmative i.e. in favour of the assessee and against the revenue.

6.The Reference stands disposed of accordingly. There shall be no order as to costs.

[D.A.MEHTA, J.]

[HARSHA DEVANI, J.]

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